

REMARKS

Claims 21-42 and claims 44-51 are pending in the application. All were rejected.

Applicant's attorney telephoned the Examiner on October 6, 2006, and verified that the Office Action is with respect to the claims as they appear in applicant's RESTRICTION AMENDMENT dated July 1, 2006 and filed 7/5/06.

Claims 22, 24, 27-42 and 44-51 were rejected under 35 USC 112, second paragraph, as being indefinite. With respect to claims 22, 24 and 27, the Examiner stated there was a "lack of antecedent basis for the limitation 'the wing section'". Applicant has amended base claim 21 by inserting the word "section" after "wing" in line 21 to make more clear that applicant was reciting a "wing section" therein along with a "tail section".

With respect to claim 28, the Examiner was unsure if applicant was claiming the combination of the board and the recreational product or the subcombination of the board only. The Examiner is correct in presuming "that the applicant's intention is to prosecute the subcombination of the board, in order that the claims are given their broadest reasonable interpretation". However, applicant urges that additional limitations that are dependent on use in the recreational product should be considered structurally limiting with respect to the claimed device. Applicant has invented a part which has several uses; applicant urges that he is entitled to claim that part in all of its inventive manifestations. Thus applicant believes that a board having fins of a type that are "upwardly" and "and for aiding control when the product is in motion", should be "considered structurally limiting with respect to the claimed device." Applicant is unaware of such a dual purpose device heretofore.

With respect to claims 29-32, the Examiner was unclear "whether the surface is of the fins or the wider end surface, both recited in claim 28". The "surface" is of the wider end surface. To make this more clear, applicant has amended base claim 28 to change the

phrase "the wider-rear-end surface" to "a surface of the wider rear end". The claim has been further amended in the interests of clarity and specificity by additionally stating (via the underlined material) that the thin fins "extend upwardly when used as a ski and downwardly when used as a surfboard".

With respect to claim 34, the Examiner found confusing the phrase "for receiving an attachment rendering the body the wing of a recreational vehicle". The phrase is intended to state that when the attachment is received in the rearward facing opening of the central rearward body portion, the body functions as the wing of a recreational vehicle. Applicant urges that the phrase should not be deemed confusing. Applicant is amenable however to some other wording, should the Examiner so strongly desire.

With respect to claims 35, 36, and 45, the Examiner stated "it is not clear how the claim further structurally limit the claimed device. For example only, in claim 35, it is not clear if the device further comprises or includes 'tow hook secured to the central front end portion'." For claims 35 and 36, applicant has rewritten their base claim 34 introductory portion to read "A device comprising a thin, wide body". And that of claims 35 and 36 accordingly. Thus is should be "clear how the claim (35 and 36) further structurally limit the claimed "device".

Claim 45 is dependent on claim 44. Applicant has deleted the comma in the introductory phrase of claim 44 so that it reads: "A rider recreational product for skimming on water and flying through air[[,]] comprising". Thus is should be clear that the "A rider recreational product for skimming on water and flying through air" of claim 45 comprises "a second part constituting the fuselage or tail section of the product and engaging the water during skimming on water".

With respect to claim 38, the Examiner stated that it is not clear "if the wing recited in line 1 has longitudinally-extending control fins on its underside recited in line 6. Applicant respectfully urges that it is clear. In line 3 it is recited that a first section constitutes the wing of the product, and in lines 5 and 6 it is recited that the first section

has the longitudinally-extending control fins on its underside. Thus it should be clear that the wing of line 1 has the longitudinally-extending control fins on its underside recited in line 6.

With respect to claim 39, the Examiner stated that there is lack of antecedent basis for the limitation "the front end". Applicant has amended line 2 of the claim to insert the phrase "wherein the first section has a front end", to provide antecedent basis.

Regarding claim 42, the Examiner stated inter alia: "It is not clear if the longitudinally-extending control fins, recited in claim 42, is the same as the longitudinally-extending control fins, recited in line 3." Reconsideration is requested. The "longitudinally-extending fins" of claim 42 are "at the outer edges of the first section". The "central longitudinal fin" of claim 41 is a single fin located in the center of the section.

Regarding claim 44, the Examiner stated that there is lack of antecedent basis for "the wings". The preamble has been amended to suit.

Regarding claim 45, applicant has amended its preamble in lines 2 and 3 to provide antecedent basis for "the fuselage or tail section " in lines 2 and 3 (now lines 3 and 4). Specifically the claim now additionally recites: "said product also having a fuselage or tail section,".

Applicant regrets all inconveniences occasioned by the informalities noted by the Examiner, and thanks the Examiner for her inherent suggestions.

Claims 21-32, 34-36, 38-42 and 44-51 were rejected under 35 USC 102(b) as being anticipated by either of Goudy (3,650,234) or Skaszynski (1,099,575) or Schlueter (3,320,625). Applicant has amended claim 21 to specify that the rider recreational product for flying through the air do so "aerodynamically", and further require that the "first section constituting the wing of the product" derive "its lift in flight from forces

resulting from its motion through air". Thus claim 21 and its dependent claims 22-27 are clearly not anticipated by Goudy, Skaszynski, or Schlueter.

Goudy merely discloses a buoyant power-driven underwater vehicle with rotatable wings for up and down and roll action and a rudder for left and right steering. The vehicle is propeller driven by a battery powered electric motor.

Skaszynski merely teaches a float frame for beginning swimmers. It is "for beginners endeavoring to learn the art of swimming whereby they will be kept afloat in such position as to permit of their learning the proper use of the arms and limbs in the art of swimming".

Schlueter does teach a winged surfboard. And he does mount a wing above a surfboard which allegedly is "capable of jumping or rising off the water at intervals as the surfboard encounters waves or rough water" when towed by a motor boat. In other words, it travels through the air ballistically ("the surfboard will lift out of the water in sequential jumps, depending on the amount of agitation in the water due to waves or the wake of the motor boat" (col. 2, lines 16-18); it (the winged surfboard) does not stay aloft aerodynamically from forces resulting from its motion through air.

Claim 28, and hence its dependent claims 29-32, have been further amended to require that the "board usable as a fuselage or tail section of a recreational product for --- flying through the air" do so "aerodynamically"; and that the "thin fins" extend upwardly "when used as a ski and downwardly when used as a surfboard", and that "are upwardly when the board is attached to the recreational product" for aiding control when the product is in motion aerodynamically". None of the references teach a surfboard having fins that extend longitudinally from a surface of a wider-rear-end surface and upwardly when the board is attached to a recreational product for aiding control when the product is in motion aerodynamically.

Claim 34, and hence its dependent claims 35 and 36, have been further amended to require that the "thin, wide body" be "usable as [[a]] an aerodynamically-supporting wing of a waterborne and airborne recreational vehicle ...". No wing of a reference supports a waterborne and airborne recreational vehicle aerodynamically.

Claim 38, and hence its dependent claims 39-42, have been further amended to require that the rider recreational product for flying through the air do so "aerodynamically", and further require that the "first section constituting the wing of the product" derive "its lift in flight from forces resulting from its motion through air". Thus claim 38 and its dependent claims 39-42 are clearly not anticipated by Goudy, Skaszynski, or Schlueter.

Claim 44, and hence its dependent claims 45-51, have been further amended to require that the rider recreational product for flying through the air do so "aerodynamically", and further require that the "first parts constituting the wings of the product" derive "their lift in flight from forces resulting from from motion through air". Thus claim 44 and its dependent claims 45-51 are clearly not anticipated by Goudy, Skaszynski, or Schlueter.

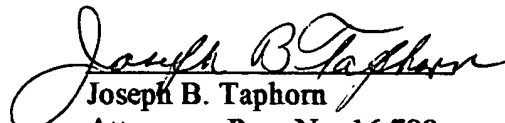
Claims 33 and 37 were "rejected under 35 USC 103(a) as being unpatentable over either of Goudy (3,650,234) or Skaszynski (1,099,575) or Schlueter (3,320,625) in view of Saghri (5,498,184)", the Examiner observing that "Goudy, Skaszynski or Schlueter reads on most of the elements of the claimed device, except for an inflatable bladder". The Examiner goes on to say that "Saghri teaches that it is well know to provide a recreational board with inflatable material". Applicant agrees with the Examiner that "it is well know to provide a recreational board with inflatable material". However, as evidenced above, applicant disagrees with the Examiner that "Goudy, Skaszynski or Schlueter reads on most of the elements of the claimed device", particularly as amended. (Claims 33 and 37 are dependent, indirectly or directly, respectively on claims 28 and 34 which were amended above to distinguish more clearly over that Goudy, Skaszynski or Schlueter. Thus even if "It would have been obvious one having ordinary skill in the art

to use inflatable material as taught by Saghri for the device of either Goudy or Skaszynski or Schlueter for the purpose of conveniently storing the device when deflated", it would not result in the inventive devices called for by the claims. Nor does Saghri make up for any of the other deficiencies of Goudy or Skaszynski or Schlueter.

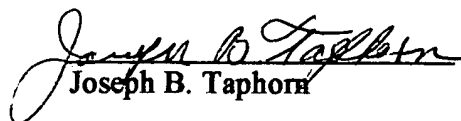
Applicant urges that he is the first to invent a rider recreational product having a wing section and a fuselage or tail section for skimming on water and flying through the air aerodynamically, that is separable into two sections comprising a first section constituting the wing of the product and deriving its lift in flight from forces resulting from its motion through air and independently usable as a rideable element, and a second section constituting the fuselage or tail section of the product and independently usable as a surfboard or ski. The claims reflect different aspects of that new invention.

Wherefore applicant believes that this application has been placed in condition for allowance, which favorable action at an early date is earnestly solicited.

Respectfully submitted,


Joseph B. Taphorn
Attorney - Reg. No. 16,788
Tel & Fax 845/462-3262
E-mail jbtaphorn@prodigy.net

CERTIFICATE OF MAILING - The undersigned certifies that this correspondence addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Non-Fee Amendment, has been deposited in the United States Postal System as first class mail with sufficient postage on October 16, 2006.


Joseph B. Taphorn